

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is made by and between Michigan State University (OPE ID: 00229000) ("MSU" or the "University"), and the United States Department of Education (the "Department"), Federal Student Aid ("FSA"), acting through its Deputy Chief Operating Officer for Program Participation and Oversight, and is effective as of the last date written below (the "Effective Date"). MSU and the Department are collectively referred to hereinafter as the "Parties," and individually as a "Party."

RECITALS

- A. On January 18, 2018, the Department notified MSU that it had commenced a review of the University's compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act") in §485(f) of the Higher Education Act of 1965, as amended (the "HEA"), and the Department's regulations (the "Review").
- B. On December 14, 2018, the Department sent MSU a Program Review Report (the "PRR") (PRCN 201820329908), stating that MSU had failed to comply with the requirements of the Clery Act. The PRR preliminarily identified specific violations of the Clery Act by MSU, directed MSU to conduct a file review to assess compliance in light of the PRR, and directed MSU to provide additional information to allow the Department to make a final determination on whether and to what extent MSU had violated the Clery Act. Under the HEA, the Department may impose a fine on an institution which violates the Clery Act.
- C. Since the issuance of the PRR, MSU and the Department have engaged in discussions aimed at resolving issues identified in the PRR and potential fines that could be imposed by the Department following completion of the Review.
- D. The Department acknowledges that MSU has made a commitment to improve its Clery Act compliance program such that concerns identified in the PRR would be addressed through agreed upon enhancements. In furtherance of its commitment, the Parties continue to work together to address appropriate enhancements to MSU's Clery Act related policies and practices, and to identify steps that MSU will undertake to ensure continued compliance in the future.
- E. MSU and the Department have now agreed to close the Review without any further administrative procedures, other than those outlined in the Appendix to this Agreement.
- F. The Parties have reached this Agreement in good faith and in furtherance of the shared belief that time, personnel, and other resource allocations are best served in fulfillment of the requirements set forth in the attached Appendix, all of which are intended to serve the MSU community, rather than on protracted and costly review and legal procedures.

TERMS AND CONDITIONS

In consideration of the mutual covenants and conditions contained in this Agreement, the sufficiency of which is hereby expressly acknowledged, and intending to be legally bound to the terms hereof, the Parties agree as follows:

1. MSU agrees that it will pay the Department a fine in the amount of \$4,500,000 (Four Million Five Hundred Thousand Dollars and No Cents) (the "Fine") to resolve the potential fine that the Department believes it could impose at the conclusion of the Review. MSU will pay the Fine through FEDWIRE on or before the expiration of three business days following the Effective Date of this Agreement. MSU should include the billing number AAA201904030 on the FEDWIRE form to ensure proper accounting of the Fine payment.
2. MSU agrees that it will implement the corrective actions specified in the Appendix to this Agreement.
3. The Department agrees not to initiate any administrative action against MSU based on the specific preliminary findings outlined in the December 14, 2018 PRR. The agreed upon \$4,500,000 Fine is imposed in settlement of all preliminary findings set forth in the PRR and any other potential noncompliance that may have occurred during the initial and expanded review periods (through December 14, 2018), irrespective of whether such other potential noncompliance was noted in the PRR or otherwise disclosed by the Department to MSU.
4. MSU specifically acknowledges that by entering into this Agreement it is waiving its right to respond to the PRR and its opportunity to appeal any potential fine that could be imposed by the Department based on the preliminary findings set forth in the PRR.
5. MSU affirms its intent to comply with the requirements in the Clery Act, the HEA and the Department's implementing regulations.
6. Nothing in this Agreement constitutes an admission of liability or wrongdoing by MSU.
7. This Agreement does not waive, compromise, restrict, or settle:
 - a. Any past, present, or future violation of the criminal or civil fraud laws of the United States.
 - b. Any presently pending or future action taken by the United States under the criminal laws or civil fraud laws of the United States.

The Department is not aware of any such actions pending against MSU based on the issues addressed in the PRR.

8. This Agreement does not address or resolve any complaints filed with, or any investigations undertaken by, the Department's Office for Civil Rights under any applicable law or regulation.
9. The persons executing this Agreement on behalf of the Parties hereto warrant that they are fully authorized to do so on behalf of the Party for which they are signing this Agreement and to bind such Party to the terms hereof.
10. This Agreement and any documents referenced herein constitute the entire contract between the Parties with respect to the subject matter hereof.
11. Each Party has cooperated in the drafting of this Agreement, hence, if any construction is to be made of this Agreement, the same shall not be construed against any Party.
12. This Agreement may be executed in two or more duplicate counterparts, each of which shall be treated as an original, but all of which together shall constitute one and the same instrument. The counterparts of this Agreement and any amendments hereto may be executed and delivered by facsimile, .pdf attachment, or other electronic signature by either Party to the other Party, and the receiving Party may rely on the receipt of such document so executed and delivered by facsimile or other electronic method as if the original had been received.

FOR MICHIGAN STATE UNIVERSITY:

[Redacted Signature]

Dr. Samuel L. Stanley, Jr.
President
Michigan State University

Dated: 9/3/19

FOR THE UNITED STATES DEPARTMENT OF EDUCATION:

[Redacted Signature]

Robin S. Minor
Deputy Chief Operating Officer for Partner and Participation Oversight
Federal Student Aid/Enforcement
U.S. Department of Education

Dated: 9/3/19

Appendix

Michigan State University Campus Crime Program Review Programmatic Improvements and Post-Review Monitoring

The United States Department of Education (Department) and Michigan State University (MSU; the University) (OPEID: 00229000) have entered into the accompanying Settlement Agreement (the "Agreement") to resolve the Department's open Campus Crime Program Review and the preliminary findings associated with Program Review Control Number 201820329908. Section C of the Agreement requires the University to modify its organizational structure and existing campus safety and crime practices, policies, procedures, training programs, and systems and to design and implement new policies, procedures, training programs, and systems, as needed, to address deficiencies and other areas of concern identified by the Department. These changes will be made in consultation with the Department. This Appendix sets out the basic requirements and terms for such changes and the Department's role in monitoring the University's efforts to comply with the provisions of this Appendix ("Post-Review Monitoring").

The purpose of Post-Review Monitoring is to ensure that adequate remedial measures are developed, fully implemented, and sustained. Any violations, weaknesses, or other areas of concern that cannot be addressed completely through this Settlement Agreement will be addressed through the Post-Review Monitoring process. Post-Review Monitoring will remain in place until all significant deficiencies and other areas of serious concerns are addressed to the Department's satisfaction. The Department anticipates that all Post-Review Monitoring activities will be completed in approximately five (5) years from the effective date of this Agreement. Information gathered during Post-Review Monitoring will inform the Department's determinations about MSU's Clery Act compliance and Title IV eligibility going forward. Any serious lapses in Clery Act compliance in the future could negatively affect the terms of the University's participation in the Title IV, student financial assistance programs.

This plan is intentionally flexible to allow the parties to collaborate on operational details throughout the Post-Review Monitoring period.

- I. MSU will employ and empower a Clery Act compliance professional ("CCP") who shall not be employed in, or under the sole authority of, the Office of the General Counsel. The CCP will report to an official who is a Vice President or its equivalent. The CCP must have the requisite experience and knowledge of the applicable laws and the institutional authority, independence and access to officials, records, and other information to work across the University to effectuate changes to policies, procedures, and practices to reasonably ensure basic compliance with the Clery Act, the HEA fire safety requirements, and the Drug-Free Schools and Communities Act (DFSCA).
- II. MSU will form a new Clery Compliance Committee ("CCC") that includes representation from all primary offices that are substantially involved in any aspect of the University's campus safety, crime prevention, emergency management, and/or environmental health and safety programs. The CCC must also include representation

from offices that include more than five campus security authorities (CSA), as that term is defined under the Clery Act, including, but not limited to, departments, offices, and/or institution functions identified in Exhibit 1 to this Appendix. MSU and the Department will jointly assess and determine the proper composition, functions, and core duties of the following teams: 1) Crisis Intervention Team and 2) Behavioral Treatment Assessment Team.

- III. MSU will engage in an institution-wide process to identify and notify all CSAs of MSU's obligations to report certain crimes under the Clery Act. The University will deliver mandatory comprehensive CSA training to all persons who meet the CSA criteria as well as all campus executive officers. The University will also ensure all officials involved in the investigation and/or adjudication of any case involving an alleged act of sexual violence continue to receive updated, specialized training in such matters each year. The specialized training for investigators and hearing officials must include training on understanding the trauma typically experienced by victims of sexual violence. The University will design and implement an enhanced CSA Reporting Form designed to facilitate compilation of information necessary to MSU's compliance with the Clery Act. The Department will review and approve all training programs and the enhanced CSA Reporting Form and will monitor the University's delivery of the training and the tracking of participation through the University's quarterly reporting obligations hereunder.
- IV. MSU's Offices of Human Resources ("HR") and Academic Human Resources ("AHR") will take the following actions:
- a. Assist the CCC in the identification and the notification of CSAs at the main campus and all other campuses in the MSU system.
 - b. Revise position descriptions, as needed, to include Clery Act-related duties.
 - c. Publicize the employee misconduct hotline regularly and prominently throughout the University on a variety of platforms, including social media networks and the webpages of individual University components, including the Department of Intercollegiate Athletics and MSU Sports Medicine.
 - d. Send a communication to all University faculty and staff at the beginning of each academic term that encourages the reporting of suspected criminal activity and misconduct with a clear description of the options to report either directly or anonymously and an explanation of the University's whistleblower protection policies and its efforts to protect employees from retaliation or intimidation.
 - e. Establish a clear line of communication between MSUPD and HR and AHR that will ensure that serious allegations of criminal conduct by faculty and staff are documented and acted upon using the administrative remedies available to HR and AHR.

- f. Ensure that agreements with third parties sponsoring or hosting non-MSU affiliated programs and/or events for minors on MSU properties contain terms requiring background checks upon any adult participating in such program as an employee, contractor, or volunteer, prior to such adult's participation therein. All such third-party agreements will require that such adults be provided and briefed on MSU's safety policies and procedures, conduct standards, and reporting protocols with respect to minors on campus.
 - g. Notify the Department by electronic mail to Senior Adviser, Clery Act Compliance/Campus Safety Operations, within three business days of MSU's termination, suspension, or other disciplinary action against an employee where such personnel actions include any attempt to deny or rescind tenure, revoke any degree or status, demote or reduce pay, or limit a person's duties or access to facilities in connection with any report that such MSU employee has committed a Clery-reportable crime, any other act of sexual violence, or such employee's violation of the University's Relationship Violence and Sexual Misconduct Policy is alleged to include criminal sexual conduct.
- V. MSU's Land Management Office will engage in an institution-wide process to identify all buildings, properties, or other parcels of land that MSU owns or controls and uses for educational purposes, in order to assist MSU in verifying that such buildings or parcels have been classified properly for Clery Act compliance purposes, in accordance with the definitions of "on campus," "non-campus building or property," and "public property," as those terms are defined under the Clery Act ("Clery Geography"). The University will use this information to produce a set of maps that clearly identify all categories of Clery Geography, including buildings and properties that are owned or controlled by recognized student organizations. A map must be produced for each of the University's separate campuses and its properties that are on the campuses of other institutions of higher education. The maps will also show the regular patrol zones of the MSU Police.
- VI. MSU and the Department will review and enhance the University's current policies and procedures on the protection of student athletes and minor children to reasonably ensure the safety and security of all persons who participate in the University's intercollegiate and recreational athletic programs and/or any camp or other youth programs that are sponsored by the University or that are held on its Clery Geography. At a minimum, the University must:
 - a. Issue a clear written explanation to all patients who receive treatment at an MSU clinic by a healthcare provider employed in MSU's Colleges of Human Medicine or Osteopathic Medicine, and to all patients of MSU Sports Medicine and the Olin Health Center, including MSU student-athletes, other students, and employees, about any sensitive medical procedures and document their informed consent to authorize such procedures and their right to immediately terminate treatment at any time. Patients must be given the opportunity to consult with a qualified medical professional to resolve any questions or concerns that were not addressed in the written explanation prior to treatment.

- b. Provide all patients who receive treatment at an MSU clinic by a healthcare provider employed in MSU's Colleges of Human Medicine and Osteopathic Medicine and all patients at MSU Sports Medicine and the Olin Health Center with the option to have a chaperone in the room during any appointments and/or examinations that require the patient to disrobe or that involve any contact with or manipulation of the patient's body. Patients and/or their parents may request a chaperone at any time and MSU will always honor the patient's request to have a chaperone present. A chaperone is required for all sensitive examinations and the use of a Chaperone must be documented in each patient's medical record. If a patient declines/refuses a Chaperone for an examination where one is required, the provider must document in the record that an offer was made and declined and the patient or guardian must sign a waiver.
- c. Provide information to patients and the parents of non-student minors about the University's patient protection programs, safety protocols, and detailed information on reporting options, and a statement that encourages the prompt reporting of any alleged misconduct or other serious concerns about safety to designated authorities.
- d. In consultation with the Department, reevaluate, and if necessary, improve safety protocols and access controls for all buildings and facilities that are used for the administration of medical treatment.

VII. MSU and the Department will conduct a joint review of all MSU policies, procedures, and program features related to safety of minors on campus. In the event the joint review indicates a need for improvement in such policies, procedures, or program features, MSU and the Department agree to work cooperatively to implement such enhancements. The joint review must include procedures on child protection and safety, campus operations, and coordination with any external groups that enter into cooperative agreements of any kind with the University, including athletic organizations, school districts, charities, or any other entity, to the extent that such agreements govern the terms of programming for minors. At a minimum, such policies and procedures must provide for:

- a. Specific application procedures for persons or groups seeking permission to host a program at MSU and the specific procedures that MSU will use to evaluate and approve or deny such requests.
- b. Criminal background checks (including searches of state sex offender registries) for all employees, contractors, and volunteers prior to initial participation and renewal at least every two years thereafter.
- c. Briefings on safety programs and reporting options.
- d. Safety checks to ensure adequate levels of supervision are present and that appropriate access controls to facilities are in place.

- VIII. MSU will engage in a complete reassessment of its procedures and protocols regarding campus safety, crime prevention, fire safety, and substance abuse prevention policies to ensure compliance with all Federal regulations governing MSUs Title IV program participation. The University must review and revise all statistical and informational disclosures that will be included in its 2020 Annual Security Report (ASR), 2020 Annual Fire Safety Report (or a combined ASR/AFSR publication), and its Drug and Alcohol Abuse Prevention program materials for 2020. At a minimum, this reassessment must include a thorough review and revision of its timely warning and emergency notification procedures and a review of its practices related to maintenance of and access to the daily crime log for each campus, and all aspects of the processes used to compile and disclose each campus's annual crime statistics for criminal offenses, hate crimes, offenses under the Violence Against Women Reauthorization Act of 2013, unfounded crimes, and arrests and disciplinary referrals for violations of drug, liquor, and weapons offenses. A copy of all new and revised policies and procedures and a revised audit trail that substantiates the accuracy and completeness of the University's crime statistics for calendar years 2015-2019 must be submitted to the Department for review prior to publication. In addition, for each year of the monitoring program, the University must submit a draft of its ASR for review by the Department no later than 30 days prior to the required distribution date. The Department agrees to provide its feedback within 14 days of receipt of the draft ASR.
- IX. MSU will implement a proactive disclosure process that will ensure that the Department is advised within three business days of all major criminal offenses and other incidents that are classified as Clery-reportable crimes by MSU that involve employees, student athletes, or members of a recognized student organization, to the extent the status of such individuals is known to the University, and to the extent that such incidents are deemed by the University to pose a significant or ongoing threat to some part of the University's Clery Geography. MSU agrees to consult with the Department if there is a question about whether or not a significant incident is a Clery-reportable offense. The University will also advise the Department within three business days of receiving notification about any assessment, audit, investigation, or other review that is to be conducted by any agency of the Federal, State, or municipal government related to campus safety or crime prevention to the extent that such an inquiry implicates requirements of the Clery Act's crime information disclosure and/or emergency notification/timely warning provisions. Additionally, the University will advise the Department within three business days of receiving notification of any inquiry related to safety that is initiated by any entity, including, but not limited to, its accreditation and licensing agencies, related to any aspect of campus safety related to the Clery Act's crime information disclosure requirements and emergency notification/timely warning requirements. Finally, the University agrees to provide copies of any letters or reports issued by such entities to the Department within three business days of the University's receipt thereof. This provision specifically covers the National Collegiate Athletic Association, the Big Ten Conference, the University's primary and secondary programmatic accreditors, and the Special Prosecutor appointed by the Michigan State Attorney General to investigate the Nassar matter.

- X. MSU will provide quarterly reporting to the Department regarding the number and types of Clery-reportable crimes reported, the number and types of such crimes that required the issuance of a timely warning, the number and types of dangerous conditions that required an emergency notification, the number and types of other (non-Clery) crime alerts and bulletins issued to the campus community, information about the delivery of training (number of persons trained and mode of delivery), staffing changes (*i.e.* hires, resignations, terminations, or reassignments) of personnel with Clery compliance responsibilities beyond ordinary CSA functions, purchases and sales of real property, certain student and employee conduct violations (related to campus safety) and, the number and types of anonymous reports of crimes of violence received by each office that operates any anonymous reporting program. Such reports will also provide quarterly updates on the number of claims filed and settlements made related to the Nassar matter. As part of this process, the University will also be required to review and revise, as needed, its calculation of the number of criminal offenses committed by Nassar that were reported to the University starting in 2016, and information on negotiated settlements entered into with crime victims sufficient to permit the Department to reconcile such settlements with Clery Act statistics and crime log disclosures.
- XI. The University will conduct up to five limited scope assessments over the course of the Post-Review Monitoring process to identify potential Clery Act violations and to examine other areas of concern related to the review period. The Department will identify the areas and issues to be assessed. At the conclusion of each assessment, the University will provide information about its findings to the Department. The information from these assessments will be used to diagnose and remediate deficiencies and weaknesses in the University's campus safety, crime prevention, and compliance programs.
- XII. MSU will to continue to engage its current external Clery Act expert to serve as a facilitator of the University's remedial actions required herein and as developed throughout the Post-Monitoring Period. The facilitator must report any significant violations of the Clery Act, the HEA fire safety rules, or the DFSCA to the Department within three business days of discovery thereof. Additionally, the facilitator will participate in periodic phone conferences to provide general updates to the Department and will produce an annual report on the University's progress on reforms to its compliance program. The report must include a section on new and ongoing compliance issues, challenges and obstacles to progress, a description of the resources committed to the remedial action program, and a summary of action items for the next phase of the program. The report must be issued to the Department and accompanied by an attestation of truthfulness of the content contained therein and the non-omission of material information relevant to the Department's understanding of the University's efforts to comply with this Appendix. This report must be issued to the Department and submitted to the University's President and Board of Trustees by March 1 of each year of the Post-Review Monitoring period.

- XIII. The University will fully cooperate with the Department in its conduct of at least three, and no more than five, on-site compliance assessments to be conducted within five years of the effective date of the Agreement.
- XIV. The Department agrees to immediately resume its consideration of the University's pending application to continue its participation in Title IV, HEA, student financial assistance programs. The University's current Program Participation Agreement expired on September 30, 2018. Since that time, the University has continued to participate in Title IV, HEA program funding on a month-to-month basis. If the University's pending application is found to be complete and in good order, the institution will be approved on a provisional basis for a period of one year. As a condition of provisional participation, the University will be expected to demonstrate substantial improvement in all aspects of its compliance with the Clery Act and other Title IV requirements. During the period of provisional approval, the University will remain on the Heightened Cash Monitoring 1 (HCM1) method of payment. None of the provisions of the Agreement, nor the fact of the Agreement itself, shall be construed as a waiver of any rights the University has with respect to the subject matter of this Section XIV. The Department expressly agrees that the terms hereof shall not be grounds to deny the University's request for approval of the planned integration of the Michigan State University College of Law (the "Law College").

(END OF APPENDIX)

**Michigan State University
Campus Crime Program Review
Programmatic Improvements and Post-Review Monitoring Appendix**

Exhibit 1

Pursuant to Section II of the accompanying Appendix to the Settlement Agreement between Michigan State University and the United States Department of Education, Federal Student Aid, the University's Clery Compliance Committee will be comprised of at least the following departments, offices, or functions identified in Column 1 below.

<u>Column 1</u>	<u>Column 2</u>
<u>Department, Office, or Function</u>	<u>Representative¹</u>
Michigan State University Police Department	<ul style="list-style-type: none"> • Records Manager • Investigative Division Commander • Deputy Chief Support Services Bureau • Training Coordinator • Emergency Management Division Commander • Broad Museum Police Detail
International Studies and Programs	<ul style="list-style-type: none"> • Director, Office of International Health and Safety • Coordinator, Office of International Health and Safety
Intercollegiate Athletics	<ul style="list-style-type: none"> • Associate Director
MSU Sports Medicine	<ul style="list-style-type: none"> • Unit Representative
Student Affairs & Services	<ul style="list-style-type: none"> • Student Services Coordinator • Assistant Director for Fraternity and Sorority Life • Assistant Director of Student Life, RSO & Late Night Programming
Dean of Students Office	<ul style="list-style-type: none"> • Dean of Students • Associate Director
Student Health Services	<ul style="list-style-type: none"> • Director, Health Promotion Department
Resident Education and Housing Services	<ul style="list-style-type: none"> • Assistant Director • Associate Director • Residential Student Conduct Administrator
Human Resources	<ul style="list-style-type: none"> • Director, Office of Employee Relations
Land Management	<ul style="list-style-type: none"> • Assistant Director • Administrative Assistant
Office for Civil Rights and Title IX Education and Compliance	<ul style="list-style-type: none"> • Title IX Coordinator and Associate Vice President • Deputy Director, OIE • Director, Office for TIX, Outreach & Education

¹ The positions listed in this column reflect likely appointments by a department, office, or function to the Clery Compliance Committee. Due to operational demands, position assignments to the Committee may change from time to time. However, membership as reflected in Column 1 titled "Department, Office, or Function" shall remain in place unless otherwise agreed between the Department and MSU during the Post-Monitoring Review period.

Department, Office, or Function (continued)	Representative (continued)
College of Human Medicine	<ul style="list-style-type: none"> • Associate Dean • CHM Security Management, Flint • CHM Security Director • Operations Administrator
College of Osteopathic Medicine	<ul style="list-style-type: none"> • Representative
Communications	<ul style="list-style-type: none"> • University Spokesperson • Senior Communications Manager
New Student Orientation	<ul style="list-style-type: none"> • Director
Infrastructure Planning and Facilities	<ul style="list-style-type: none"> • Unit Representative
Risk Management	<ul style="list-style-type: none"> • Unit Representative
Youth Programs	<ul style="list-style-type: none"> • Director
Office of Audit, Risk and Compliance	<ul style="list-style-type: none"> • Associate Vice President and Chief
Health/Medical Compliance Officer	<ul style="list-style-type: none"> • Representative
Counseling and Psychological Services (CAPS)	<ul style="list-style-type: none"> • Director
Continuing Education	<ul style="list-style-type: none"> • Representative
Advancement/Development	<ul style="list-style-type: none"> • Unit Representative

(END OF EXHIBIT)